

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ET Docket No. 04-35

In the Matter of

**New Part 4 of the Commission's Rules
Concerning Disruptions to Communications**

Petition for Reconsideration of Cingular Wireless LLC

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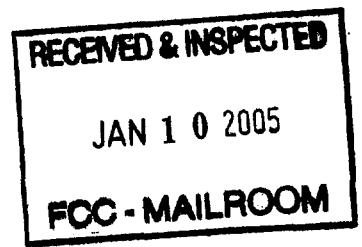
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To: The Commission

PETITION FOR RECONSIDERATION

Cingular Wireless LLC (Cingular), pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby respectfully petitions for reconsideration of the Report and Order (R&O) released August 19, 2004 in the captioned proceeding. Notice of the R&O was published in the Federal Register on December 3, 2004, 69 FR 70315. Specifically, Cingular requests that the Commission reconsider its requirements that wireless carriers report planned outages that exceed the Commission's reporting threshold. In addition, Cingular supports the Petition for Partial Reconsideration and Motion for Partial Stay filed by CTIA – The Wireless Association ("CTIA") on December 23, 2004¹.

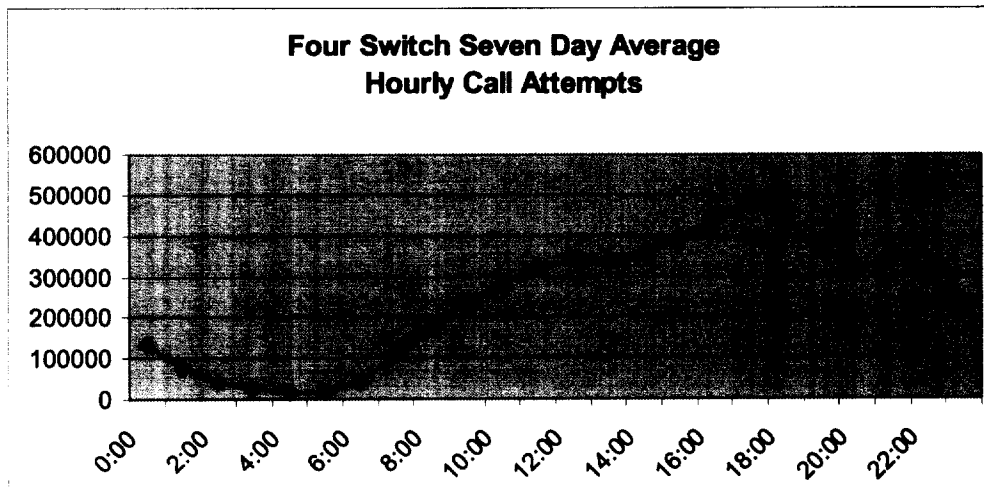
In the comments leading up to the R&O, Cingular and others requested that the Commission apply its outage reporting requirements only to unplanned outages.² The Commission rejected this request. The entire analysis of this issue was contained in two sentences in the 86-page R&O:

¹ See Petition for Partial Reconsideration and Motion for Partial Stay, ET Docket No. 04-35 (Dec. 23, 2004) filed by CTIA (CTIA – PFR).

² Cingular Comments at 13, fn. 40; Cingular Comments at 15 ("Instead, Cingular recommends a simple metric, unplanned failure of a mobile switching center (MSC) for 30 minutes and/or 90,000 blocked originating calls within 30 minute time period, as recommended by the NRIC committee, be used as the threshold for wireless carriers.")

Finally, we reject the contention that planned outages should not be reportable and conclude that, regardless of the reason for it, any outage that meets the threshold must be reported. Wireless communications providers are encouraged to seek alternative means of accomplishing maintenance that do not require taking the MSC or the entire switch out of service.”³

Maintenance of wireless switches and software upgrades are critical to continuity of excellent customer service. Wireless carriers meticulously plan their maintenance activities and software upgrades to minimize their impact on customers. For example, Cingular conducts planned maintenance and software upgrades during a “maintenance window” between midnight and six a.m. These hours were selected because they correspond to the time that the network experiences the least amount of customer traffic.



In addition, wireless carriers use techniques such as switch partitioning to minimize switch downtime. Carriers generally partition a switch undergoing a software upgrade and do all preparatory work on the offline side of the switch. However, when

³ R&O ¶ 114.

the offline side of the switch is brought back online, it is necessary to restart the switch. During the restart, the entire switch is necessarily offline. In deference to the Commission's concern stated above, there are no alternative means to restarting a switch. While the downtime is generally less than 30 minutes, on occasion additional time is required. In extreme cases a software load can be staggered over several nights during the maintenance window. Every effort is made to eliminate or reduce the impact of these necessary activities on customers.

Because the Commission adopted a "potentially affected" metric for outage reporting, these planned outages will trigger reports even though the number of customers actually affected is very small. The Commission justified the "potentially affected" metric on the assumption that in an emergency the number of customers attempting to use the wireless network will greatly exceed historical average usage.⁴ While that assumption may be true in the event of a terrorist attack or natural disaster, it hardly justifies triggering an outage report resulting from routine maintenance.

Reporting planned outages resulting from routine maintenance will be burdensome for wireless carriers and the Commission. The new Cingular currently has more than 400 MSCs. Each switch requires one or two major software upgrades per year, and four to six medium software drops per year. Cingular's experience shows that of these upgrades, one to three per month may exceed the 30 minute threshold thereby triggering an outage report. As such, the Commission could receive over 30 outage reports annually generated by routine switch maintenance from Cingular alone. These outage reports will not deliver any concomitant benefit to the public.⁵

⁴ R&O ¶ 107.

⁵ CTIA – PFR at 7.

In addition to the unnecessary burden of processing these reports, planned outage reports will greatly mischaracterize the actual reliability of the Cingular or any other wireless network. It would be ironic if the very activities that Cingular and other wireless providers are taking to improve network reliability, quality and features would trigger outage reports that suggest just the opposite. These misleading outage reports do nothing to advance the Commission's stated goal to develop industry best practices. The Commission should reconsider its decision to include planned outages for maintenance and software upgrades in the outage reporting requirements for wireless carriers and eliminate the obligation⁶. Alternatively, the FCC should increase the threshold for planned outages to 2 hours. This would eliminate reporting of the vast majority of outages resulting from planned maintenance and software upgrades.

Finally, Cingular supports the Petition filed by CTIA. The Commission's rationale for exempting wireless communications from outage reporting requirements to airports applies equally to all special offices and facilities.

Respectfully submitted,

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January 3, 2005

⁶ CTIA – PFR at 6-7.

CERTIFICATE OF SERVICE

I, Lydia Byrd, an employee in the Legal Department of Cingular Wireless LLC, hereby certify that on this 3rd day of January, 2005, courtesy copies of the foregoing Petition for Reconsideration of Cingular Wireless were sent via first class mail, postage prepaid to the following:

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

In addition, the document was filed electronically in the Commission's Electronic Comment Filing System on the FCC website.

s/ Lydia Byrd
Lydia Byrd